

NATIONAL ASSOCIATION OF DEVELOPMENTAL DISABILITIES COUNCILS

1234 Massachusetts Avenue, NW • Suite 103 • Washington, DC 20005 • 202-347-1234

#101-66  
November 7, 1990  
To: Executive Directors

Information Alert  
DD Act and Appropriations

President Signs DD Act!!!

On October 31st, President Bush signed the DD Act Amendments into law, P.L. 101-496. The law will be available in 3-5 weeks and individual copies can be obtained one of several ways: write to the Senate Document Room at;

Senate Document Room  
Hart Senate Office Building Rm. B-04  
Washington, DC 20510-7106

or you may write or call the House Document Room at;

House Document Room  
House Annex #2 Rm. B-18  
Washington, DC 20515  
(202)225-3456

Please make sure you have the Public Law number available when ordering and if ordering by mail please enclose a mailing label. In the meantime the new amendments as they appeared in the Congressional Record of October 12, 1990; pp. 15200 to 15204, are attached!

DD Act FY 1991 Appropriations

The final budget figures are in. The DD Act programs were affected variously:

Basic State Grant:	\$64,409 million	(4.0% increase)
Protection and Advocacy Systems:	20.982 million	(2.4% increase)
University Affiliated Programs:	13.907 million	(5.5% increase)
Projects of National Significance:	3.025 million	(\$225,000 increase)

The \$65 million trigger to increase minimum allotments was not reached, although minimums must be increased using a previously permissive formula based on increases in the Consumer Price Index compared to the appropriations increases. The budget agreement states that inflationary/cost of living increases will be the minimum allowed over the next five years, but these will be established for gross budget categories such as the entire domestic discretionary category. Thus greater increases may be able to be achieved in individual programs.

them. To deal with this problem, we have included a change that would provide the court with the authority to suspend, in extraordinary circumstances of undue burden on the parties, proceedings on a petition for up to 6 months. Also, the amendments would increase operating funds so that necessary resources will be available to carry out the program.

Mr. President, this legislation will help the immunization programs of the Public Health Service to regain the momentum, and the significant achievements, of the early 1980's. At the same time, it will make important and necessary technical changes in the Public Health Service Act. I urge my colleagues to join me in moving this legislation forward for the President's signature.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2974) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 4238), as amended, was passed.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### BILL INDEFINITELY POSTPONED—S. 2629

Mr. WIRTH. Mr. President, I ask unanimous consent the Senate companion Calendar 713, S. 2529, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### BILL INDEFINITELY POSTPONED—S. 1868

Mr. WIRTH. Mr. President, I ask unanimous consent that Calendar 363, S. 1868, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS. ACT

Mr. WIRTH. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2753.

The PRESIDING OFFICER laid before the Senate the following mes-

sage from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 2753) entitled "An Act to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

#### SEC 2. REFERENCE

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

#### SEC X FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

(1) in subsection (a)—

(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (7) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6J) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved;" and.

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with such persons share their talents at home, school and work, and in recreation and leisure time; and".

#### SEC i. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person";

(B) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(C) by adding after and below subparagraph (E) the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided."

(2) in paragraph (8J), by striking "nondisabled citizens" each place such term appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (V);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities, ";

(4J in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9J), by striking "specialized services or special adaptation of generic services" each place such term appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9J)(BJ)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7J in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting "individual, family and community supports";

(3) in subparagraph (B) (17), by inserting "and their families" after "disabilities" each place such term appears;

(10J by striking paragraph (21) and inserting the following new paragraph:

"(21J) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families,

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation,

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training- or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the person's lifespan."

#### SEC 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

#### SEC 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(3)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting "and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting "and a summary of actions taken to improve access to services for such groups" before the semicolon.

#### SEC 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting after "Developmental Disabilities" the second place such term appears the following; "the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration,"; and

(2) by inserting at the end thereof the following: "Each meeting of the interagency committee (except for any meetings of any subcommittees of the committee) shall be open to the public Notice of each meeting, and a statement of the agenda for the meeting, shall be published in the Federal Register not later than 14 days before the date on which the meeting is to occur."

#### SEC 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1973".

#### SEC 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (39 Fed. Reg. pL ID" and inserting "June 3, 1988".

#### SEC 10. FLRPOSE.

Section 121 of the Act is amended by inserting "and their families" before "through the conduct of—

#### SEC 11. STATE PLAN.

Section 122 of the Act is amended—

(1) in paragraph (DIB) of subsection (b), by amending the first sentence to read as follows: "The plan must designate the State agency (hereafter in this part referred to as the 'designated State agency') which, on behalf of the State, shall receive, account for, and disburse funds under this part based on the State plan required in section 122, and shall provide required assurances and other administrative support services.";

(2) in paragraph (2)(C) of subsection (b)—

(A) by inserting "and other assistance" after "scope of services";

(B) by inserting "and policies effecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services,";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased independence, productivity, and integration into the community for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year.";

(4) in paragraph (5)(B) of subsection (b)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f);";

(5) in paragraph (5)(D)(i) of subsection (b)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: "and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence. "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part";

(71) by adding at the end of subsection (e) the following new paragraph:

"(Si After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor and

(&) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

(4) Each State Planning Council shall utilize the -information developed pursuant to paragraphs <1>, (2), and (3) in developing the State plan."

#### SEC 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to and

(B) by striking the period at the end thereof by inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire";

S3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

1B) by inserting after paragraph (1) the following new paragraph:

(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council -who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council"; and

<4> in paragraph (1) of subsection (d) by striking "Jointly with" and inserting "and submit after consultation with".

#### SEC 12. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows: ..

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than \$200,000; and

"(ii) to any other State may not be less than the greater of \$350,000 or the amount of the allotment (determined without regard to subsection 1d) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal years bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds \$35,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of

the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than \$210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than \$400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year."

#### SEC 13. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "\$62,200,000" and all that follows through the period at the end thereof and inserting "\$77,400,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993."

#### SEC 15. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program applicable within a State, an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act";

(B) by striking "and" at the end of clause (V) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subsection (III) of paragraph (2)(G)(ii) by—

(D) by inserting "and" at the end of paragraph (2)(G)(ii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(H) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been re-

ceived by the system or with no set to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person."; and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause" and

12) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

13) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system, except that—

"(1) the governing board shall be composed of members who broadly represent or are knowledgeable about the needs of the individuals served by the system;

"(2) not more than 2/3 of the membership of the governing board may be appointed by the chief executive officer of the State involved, in the case of any State in which such officer has the authority to appoint the membership of the board; and

"(3) any vacancy in the board shall be filled not later than 60 days after the date on which the vacancy occurs.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(i) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first

"(g) If a State in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the

Developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers. Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities."

#### SEC 2L GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by inserting "improve supportive living and Quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects -which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142'.

#### SEC 22. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

#### -SEC 10. AUTHORIZATION OF APPROPRIATIONS

"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated \$3,650,000 for fiscal year 1991, and such sums as may be necessary for each of the fiscal years 1992 and 1993.

(b) LIMITATION.—At least 8 percent, but not less than \$300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2)."

Amend the title so as to read:

An Act to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

Mr. HARKIN. Mr. President, I rise in support of the amendment in the nature of a substitute to S. 2753, the Developmental Disabilities Assistance and Bill of Rights Act of 1990 proposed by the House of Representatives.

I would like to commend our colleagues from the other body, particularly Representatives WAXMAN and MADIGAN, for their willingness to work together to craft this substitute which I know will further enhance the productivity, independence, and integration into the community of persons with developmental disabilities.

I also believe that the substitute will promote the inclusion of all persons with developmental disabilities in community life, promote the interdependent activities of all persons with developmental disabilities and recognize their talents at "home, school, and work, and in recreation and leisure time.

The substitute is identical to S. 2753, except as noted below. First, the substitute includes a 3-year authorization period instead of 4 years. Second, the substitute includes lower authorization levels for fiscal year 1991 and "such sums" in the out years.

	Senate	Substitute
Basic State Grant for Developmental Disabilities Councils		
1991	\$61.27	\$77.4
1992	65.350	(1)
1993	85.6	(1)
Protection and Advocacy		
1991	27	24
1992	25.35	(1)
1993	25.77	(2)
University Affiliated Programs		
1991	18.4	16.5
1992	21.042	(1)
1993	23.816	(1)
Programs of National Significance		
1991	3.9	3.55
1992	4.095	(1)
1993	4.299	(2)

Third, the relationship between the developmental disabilities councils and the designated State agencies is clarified. Under the substitute, the plan must designate the State agency which, on behalf of the State, shall receive, account for and disburse funds based on the State plan and shall provide required assurances and other administrative support services.

In most States, the relationships between DD councils and their designated State agencies is working well; however, in some states the designated agency inappropriately directs the expenditures of DD basic State grant funds to its own priorities, contradicting or refocusing the intended activities in the State plan mandated by the DD Act. Under the amendment, this practice is unacceptable.

Councils must be conflict-free systems advocates in order to implement statutory mandates. With the exception of funds designated under section 122(d)(1) as "administrative"—totaling the lesser of 5 percent or \$50,000 of the State grant for legal, accounting and other support services—Congress intends council decisions to be implemented by the State designated agency regarding the operation of Council and its staff, implementation of the approved State plan, planning, coordination, administration of priority area activities and advocacy.

The responsibilities of the designated State agency are expressly limited to ensuring that expenditures are made in a manner consistent with State law regarding grants and contracts, proper accounting and book-keeping and other fiscal controls, the provision of assurances, and the provision of administrative support services for this program.

The substitute reinforces the council reporting requirement in section 107(a)(3) and that the designated State agency should consult with the council on all fiscal matters.

Fourth, the substitute modifies the responsibilities of the Federal Inter-agency Committee.

Finally, the substitute clarifies the appointment of members to the boards of the protection and advocacy systems.

Again, I urge my colleagues to support the substitute amendment.

Mr. DURENBERGER. Mr. President. I rise to support HR. 5679, the Developmental Disabilities Assistance and Bill of Rights Act of 1990.

As you know, the Senate passed its version of H.R. 5679 earlier this year. Between then and now we have worked closely with the House on their bill, and I am pleased to say that the House adopted most of the Senate's bill with only a few minor changes. I believe the suggested changes by the House are good ones and I encourage my colleagues to accept them as proposed.

Although this little known act provides less than 2 percent of the total Federal funding for persons with developmental disabilities, it plays a significant role in shaping and guiding services for persons with developmental disabilities. It is, in essence, the engine that drives services and the glue that holds the system together. It assists States in ensuring people with developmental disabilities receive the services and other assistance they need to achieve independence, productivity, and integration into the community.

The continued support of the programs under the Developmental Disabilities Act will be critical if we are to ensure the rights granted under the Americans with Disabilities Act, just signed into law by President Bush, are not gone to waste by a system that does not facilitate independence, productivity, and integration.

Finally, Mr. President, I want to thank my good friend from Iowa, the chairman of the Subcommittee on Disability Policy for all his efforts on this bill. The bill before us is the product of his many hours of hard work to secure a balanced and bipartisan agreement that will move this program forward into the 21st century. I would also like to thank Representatives MADIGAN, WAXMAN, LENT, and TAUKE for their fine work on this bill.

Mr. President, I urge my colleagues to support H.R. 5679.

Mr. WIRTH. Mr. President, I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. WIRTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### THE CALENDAR

Mr. WIRTH. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 962, 963, 964, 965, and 968, en bloc; that the bills be read for a third time and passed; that preambles,